

Claim 35 has been editorially amended and remains supported by the specification at, for example, page 10, lines 4-5. Claims 39 and 41 have been editorially amended, and remain supported by the specification at, for example, page 10, lines 3-16. The dependency of claims 45, 47 and 52 has been corrected.

New claims 57-90 are supported by the specification at, for example, page 5, lines 14-21; page 6, lines 20-21 and lines 30-31; page 7, lines 1-4 and lines 10-20; page 8, lines 16-33; and page 10, lines 3-16.

No issues of new matter should arise, and entry of the amendment is respectfully requested.

II. Obviousness-Type Double Patenting Rejection

Claims 35-56 are rejected under the judicially created doctrine of obviousness-type double patenting over the claims of U.S. Patent No. 6,074,670.

In response to the rejection, Applicants are filing herewith a Terminal Disclaimer which disclaims the terminal part of the present application that would extend beyond the expiration of U.S. Patent Nos. 6,074,670 and 6,277,405. In view thereof, Applicants respectfully request that the obviousness-type double patenting rejection be withdrawn.

III. Rejection under 35 USC § 112

Claim 52 has been amended to depend from claim 35. In view thereof, Applicants respectfully request that the rejection under 35 USC § 112, second paragraph, be withdrawn.

IV. Rejection under 35 USC § 102

Claims 35 and 42-44 are rejected under 35 USC § 102(e) over Duclos et al (US Patent No. 5,776,495).

Applicants respectfully traverse the rejection and respectfully submit that Duclos does not disclose or suggest the invention of claims 35 and 42-44 for at least two reasons.

✓ First, Duclos does not disclose, suggest or provide motivation to use the claimed micronized fenofibrate, and does not disclose, suggest or provide motivation to use a micronized fenofibrate having a particle size less than 20 μm .